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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,700	09/14/2005	Wade A. Krull	211843-00030	6925

27160 7590 08/06/2007
PATENT ADMINISTRATOR
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EXAMINER

ANGADI, MAKI A

ART UNIT	PAPER NUMBER
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1765

MAIL DATE	DELIVERY MODE
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08/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/519,700		KRULL, WADE A.	
	Examiner		Art Unit	
	Maki A. Angadi		1765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/12/07, 12/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed on 7/9/2007 with respect to claims have been fully considered and are persuasive. The rejection of claims has been withdrawn because the prior art of Lin (US Patent No. 6, 069,061) fails to disclose or suggest applicants step of *"depositing a thin first gate electrode layer of predetermined thickness on first dielectric layer defining an interface, the thickness of first gate electrode layer selected to minimize gate depletion adjacent interface"* as defined in independent claims 1, 11, 17, and 19.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 1765

2. Claim 1-30 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1-30 of co-pending Application No. 11/647,928 in view of Wolf, Silicon Processing for the VLSI Era, Lattice Press (1995). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

Claims 1, 11, 17, 19, of the present application differ from the claims 1, 11, 17, 19 of copending US application, 11/647,928 because of "the step of choosing a gate electrode layer of predetermined thickness and heat treatment to minimize diffusion, defining an interface to minimize gate depletion adjacent interface". It would have been obvious to one ordinary skill in the art at the time the invention was to modify claims 1, 11, 17 and 19 of US application 11/647,928 because Wolf teaches that gate width effects the threshold voltage in the operation of MOSFET devices (pages and 222-223). Therefore, one who is skilled in the art would be motivated to optimize the thickness of gate electrode layer through routine experimentation of adjusting dopant concentration and mobility of charge carriers by adjusting layer thickness (Wolf, page 208). See MPEP § 2144.05 II.

As to dependent claims 2-16, 18, 20-23 and 25-30 of the present application are same as claims 2-16, 18, 20-23 and 25-30 of the co-pending application.

As to claim 24, of the present application differ from the claim 24 of the copending application 11/647,928 because of "the selection of implant energy to contain the dopant within the dielectric layer". It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 24 of US application 11/647,928 because Wolf teaches that implant energies are modified to control the mobility of charge carries to influence device characteristics (page 207). Therefore, one who is skilled in the art the time of the invention should be able to select implant energies depending on the choice of dielectric material, which can be optimized by experimentation (Wolf, page 207). See MPEP § 2144.05 II.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maki A. Angadi whose telephone number is 571-272-8213. The examiner can normally be reached on 8 AM to 4.30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine G. Norton can be reached on 571-272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dr. Maki Angadi
Examiner
Art Unit 1765

NADINE G. NORTON
SUPERVISORY PATENT EXAMINER

